

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
)	
v.)	
)	Docket no. 2:19-cr-00030-GZS
MICHAEL LIBERTY, et al.,)	
)	
)	
Defendants.)	

ORDER ON MOTION FOR PRELIMINARY HEARING

Before the Court is the Motion for Preliminary Hearing on Conspiracy Evidence filed by Defendant Paul Hess (ECF No. 98) and joined by Co-Defendant Michael Liberty (ECF No. 104). For reasons briefly explained herein, the Court DENIES the Motion.

Defendants seek a preliminary hearing regarding evidence that the Government may seek to introduce at trial in accordance with Federal Rule of Evidence 801(d)(2)(E). As the Government correctly points out in opposing this Motion, the First Circuit has long-established precedent on how trial courts should generally make “Petrozziello rulings.” See United States v. Ciresi, 697 F.3d 19, 25 (1st Cir. 2012) (“[A] district court is not required to make a Petrozziello ruling prior to admitting a statement under Rule 801(d)(2)(E). Instead, the court may admit the statement provisionally when it is introduced, deferring a final decision until the close of evidence.”); see also United States v. Ciampaglia, 628 F.2d 632 (1st Cir. 1980); United States v. Petrozziello, 548 F.2d 20 (1st Cir. 1977). In light of these precedents and on the record presented, the Court concludes a preliminary hearing is not warranted. Therefore, the Motion (ECF No. 98) is DENIED. However, the Court notes that this ruling is without prejudice to either Defendant filing motions in limine as to any specific out-of-court statement that Defendants assert should be excluded.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 8th day of April, 2020.